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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.5359 OF 2006

PETITIONERS

1. Maruti Clean Coal and Power Ltd., a company incorporated under the relevant provisions of the Companies Act 1956, having its Registered Office at G-8, Hira Arcade, Near New Bus Stand, Pandri, Raipur (C.G.)

2. Shri. B.L. Agrawal, aged 50 years, S/o Late R.P. Agrawal, Indian Citizen, Shareholder and Managing Director of M/s Maruti Clean Coal and Power Ltd., R/o "Siddharth", Geeta Nagar, Raipur (C.G.)

Vs.

RESPONDENTS

1. The State of Chhattisgarh through the Principal Secretary to the Government of C.G., Department of Industries, D.K.S. Bhawan, Mantralay, Raipur (C.G.)

2. The Chhattisgarh State Industrial Development Corporation Ltd. (CSIDC), an undertaking of the State Government of C.G. incorporated as a company under the Companies Act 1956, having its Head Office at LIC Bhawan, Jeevan Bima Marg, Pandri, Raipur (C.G.)

3. The State Investment Promotion Board, through Convener Shastri Chowk, Raipur (C.G.)

4. M/s Kartikay Coal Washeries Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its corporate office at 18, Vasant Enclave, Rao Tularam Marg, New Delhi – 110057.

Present : Shri B.P. Sharma, learned counsel for the petitioners.
Shri Prashant Mishra, learned Addl. Advocate General with Shri Utkarsh Verma, learned G.A. for respondents 1 & 3.
Shri Ayaz Naved, learned counsel for respondent No.2.
Shri P. Diwakar, learned Sr. Advocate with Shri P.K. Bhaduri, learned counsel for respondent No.4.

ORAL ORDER
(Passed on 12th December, 2006)

The undisputed facts of the case are the following:

(2) The petitioners as well as the fourth respondent herein have made separate applications to the Government of Chhattisgarh for grant of lease of 13.26 acres of land comprised in Khasra No.850/23 situated at Village Ratija, (previously known as Village Nawagaon Khurd) Tahsil Pali, District Korba, which land hereinafte. referred to as the 'petition schedule land'. The documents placed before the Court do not include any order so far made by the State of Chhattisgarh granting petition schedule land either in favour of the fourth respondent or the petitioners or any one else. However, it appears that the petitioners apprehending that in view of what is stated in the letter No. CSIDC/R/Bhu Are/06/2855,-dated 12.07.2006 of the Managing Director of the Chhattisgarh State Industrial Development Corporation Ltd, produced at Page-119 B of the material papers, the petition schedule land is likely to be granted to the fourth respondent, this writ petition was presented in this Court on 26.09.2006 praying for the following reliefs:-

"7. **RELIEFS CLAIMED:**

In the light of the before mentioned facts and grounds, the petitioners claim the following relief's:-

(a) A writ or and/or in the nature of Mandamus do issue, commanding and directing the Respondent Nos.1 to 3 not to give any and/or further effect to letter No.2855 dated 12.07.2006 being Annexure-P/14 addressed by the Respondent No.2 to the Petitioner and/or to desist from taking any further steps pursuant thereto.

(b) A writ or and/or in the nature of Mandamus do issue commanding and directing the Respondent No.1 to 3 to process, evaluate and consider the rightful and preferential

claim of the Petitioners to the allotment of the subject land comprised in Khasra No.850/23 area 13.26 acres situated at Village Ratija, Tahsil Pali, district Korba in accordance with law in the light of the provisions contained in the 2002 Adhiniyam and the 1974 Rules and thereafter to decide the same by a speaking and reasoned order.

(c) A writ of an/or in the nature of Mandamus do issue commanding and directing the Respondent Nos. 1 to 3 not to allot or lease out the subject land in favour of the Respondent No.4.

(d) A writ of an/or in the nature of certiorari do issue commanding and directing the Respondent Nos.1 to 3 to produce before the Hon'ble Court the entire record of original Revenue Case No.01/A-19/2005-06 titled District Trade and Industries Centre, Korba V/s State as also all files, inter and intra Departmental correspondence etc. so that conscionable justice is done to the Petitioners by quashing the letter No.2855 dated 12.07.2006 addressed by the Respondent No.2 to the Petitioner being Annexure-P/14 to the Writ petition.

(e) Any other order or direction in the nature of Writ or otherwise as may be considered just, fit, appropriate and proper by the Hon'ble Court in the facts and circumstances of the present case.

(f) To award full costs of the present proceedings to the Petitioners against the Respondents.

(3) Till date as apprehended by the petitioners, the petition schedule land is not leased to the fourth respondent or any one else. In that regard no document nor any order passed by the Government of Chhattisgarh is placed before the Court.

(4) It is an admitted fact that there is a serious title dispute between the Government of Chhattisgarh and S.E.C.L. with regard to the petition schedule land, for according to the S.E.C.L., the petition schedule

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land was initially acquired under Coal Bearing Areas (Acquisition & Development) Act, 1957 by the Central Government and having acquired the same, it was handed over the S.E.C.L. being a public sector undertaking owned by Government of India and that as on today S.E.C.L. is the exclusive and absolute owner of the petition schedule land, it is the case of the Government of Chhattisgarh that the petition schedule land is still owned by the Government of Chhattisgarh. In view of this controversy, it is quite doubtful whether the Government of Chhattisgarh is going to consider the applications of the petitioners and that of the fourth respondent and whether it is going to grant land to any of the applicants. I am at a loss to understand why the petitioners have rushed to this Court under Article226 of the Constitution of India, at this stage, on the mere apprehension that it is likely that the Government of Chhattisgarh would grant the land in favour of the fourth respondent. Be that as it may, even as apprehended by the petitioners, the petition schedule land is ultimately granted to the fourth respondent by the Government of Chhattisgarh and such grant is vitiated on any permissible legal ground, it is always open for the petitioners to call in question the correctness and validity of such order of the Government of Chhattisgarh. Looking from that angle also, the present writ petition is totally premature. In that view of the matter, I am not inclined to entertain this writ petition and adjudicate upon the issue with regard to who is more qualified or deserves to be granted the petition schedule land evaluating the individual merits of the applicants. It is not the job of the Court under Article 226 of the Constitution of India and it is primarily for the Granting Authority to appreciate the need of the rival applicants and grant the land to more deserving person. In that view of the matter, writ petition is dismissed keeping open all the contentions

raised in this writ petition to be agitated before the appropriate authority or Court at an appropriate state. No costs.

Sd/-
Chief Justice